

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID SOTO-QUINTERO,

Defendant.

No. 11-CR-4144-DEO

**ORDER ACCEPTING REPORT
AND RECOMMENDATION
CONCERNING GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

Before the Court is Chief Magistrate Judge Paul A. Zoss' Report and Recommendation Concerning Guilty Plea (Docket No. 77, 03/15/2012).

On December 16, 2011, a one count Indictment (Docket No. 1) was returned in the above-referenced case listing Defendant Soto-Quintero and 4 co-defendants. On March 15, 2012, Defendant David Soto-Quintero entered a guilty plea to Count 1 of the Indictment, pursuant to a plea agreement (Docket No. 74-1) before Chief United States Magistrate Judge Paul A. Zoss.

Count 1 of the Indictment charges that from a date unknown but prior to November 2009, and continuing through December 2011, in the Northern District of Iowa and elsewhere, defendant David Soto-Quintero and named co-defendants, who

having been previously convicted of a felony drug offense, that is, possession with intent to deliver methamphetamine in Woodbury County, Iowa, case number FECR051409, did knowingly and unlawfully combine, conspire, confederate, and agree with each other and others whose identities are both known and unknown to the Grand Jury, to commit offenses against the United States, to wit: to knowingly, intentionally, and unlawfully possess with the intent to distribute 50 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance within 1,000 feet of Smith Elementary School located in Sioux City, Woodbury County, Iowa, and Lewis and Clark Elementary School located in South Sioux City, Nebraska, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A), 851, and 860.

This was in violation of Title 21, United States Code, Section 846.

The Report and Recommendation (Docket No. 77) recommends that defendant David Soto-Quintero's guilty plea relating to count 1 be accepted. Waivers of objections to Judge Zoss' Report and Recommendation were filed by each party (Docket Nos. 78 and 79).

The Court, therefore, undertakes the necessary review to accept defendant David Soto-Quintero's plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

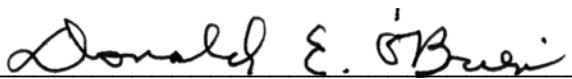
The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

As mentioned, waivers of objections to the Report and Recommendation have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss' findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that this Court accepts Chief Magistrate Judge Zoss' Report and Recommendation (Docket No. 77), and accepts defendant David Soto-Quintero's plea of guilty in this case to Count 1 of the Indictment (Docket No. 1).

IT IS SO ORDERED this 23rd day of March, 2012.



Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa